

State of Colorado Disposable Bag Fees

Effective January 1, 2023, the State of Colorado will be implementing State House Bill 21-1162 requiring large stores and retail food establishments payment of \$0.10 disposable bag fee for both recycled paper and plastic carryout bags. Beginning in 2024, large stores will be prohibited from providing single use carryout bags.

Who is regulated by this bill?

This bill applies to all large stores. A large store refers to the following:

- Does not solely operate in Colorado OR
- Has more than three operating locations OR
- Is part of a franchise, corporation, or partnership that has physical locations outside of Colorado.

Retail food establishments do not have to comply with the bag BAN portion (they will still need to collect and remit bag fees) if they prepare or serve food in individual portions for immediate on- or off-premises consumption and are not a grocery store or convenience store; in other words, restaurants will not be subject to this plastic bag ban, but are subject to the \$0.10 disposable bag fee.

Additionally, in HB 21-1162, stores are defined to exclude “small stores,” which are stores that

- (1) operate solely in Colorado, and
- (2) have three or fewer locations in the state, and
- (3) are not part of a franchise, corporation, or partnership that has physical locations outside of Colorado.

This means that individual “mom-and pop” stores will also not be subject to the plastic bag fee or ban. Also starting January 1, 2024, all retail food establishments (which includes restaurants) will not be permitted to distribute expanded polystyrene products (i.e. styrofoam) for use as a container for ready-to-eat food. If a retail food establishment has remaining inventory that it purchased before January 1, 2024, it can distribute that inventory until it is depleted. The retail food establishment exception discussed above for plastic bags does not apply here.

For a full list of exclusions, visit:

<https://casetext.com/statute/colorado-revised-statutes/title-25-public-health-and-environment/disease-control/article-4-disease-control/part-16-food-protection-act/section-25-4-1602-definitions>

What is considered a disposable bag?

Disposable bag refers to a bag, other than a reusable bag, that is provided to a customer at a checkout stand, cash register, point of sale or other point of departure by any retail establishment for the purpose of transporting and carrying away items purchased at the store. Below is a list of examples of what does **not** constitute a disposable bag:

- (a) A bag that a pharmacy provides to a customer purchasing prescription medication.
- (b) Bags used by consumers inside the store before point of sale to: 1) package loose bulk items such as fruits, vegetables, nuts, grains, candy or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks or other small species; and bulk seed, bulk livestock feed or bulk pet feed or 2) contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants or other items that if they were to come in contact with other items, could dampen or contaminate other items.

For a full list please visit <https://leg.colorado.gov/bills/hb21-1162>

How much is the disposable bag fee, how is it charged, and what are the remittance requirements?

The fee is 10 cents (\$0.10) per disposable paper or plastic bag used to carry out purchases. Retailers may not refund any part of the disposable bag fee. Retailers may not exempt any customer from any part of the disposable bag fee unless the customer presents at the time, proof of participation in a federal, state, county or city income-qualified aid program.

Is any portion of the disposable bag fee subject to sales tax? No

Where can large grocers file the disposable bag fee with the City of Alamosa?

Fees can be remitted to the City of Alamosa through the finance department, in person, or on the City's website at <https://cityofalamosa.org/departments/finance/> .

How often is the disposable bag fee return filed?

The fee must be collected beginning January 1, 2023. Due to a drafting error in the legislation, the disposable bag fee will not need to be filed until January 1, 2024 to the City of Alamosa. The City encourages retail establishments to file the returns and remit their collected fees every quarter beginning with the first quarter of 2023.

What happens if I don't collect the fee or don't remit the City's portion to the City?

Penalties for non-compliance are as follows:

- A. Up to five hundred dollars for a second violation within 2 years; or
- B. Up to one thousand dollars for a third or subsequent violation within 2 years.

Questions? See Colorado House Bill HB 21-1162 at <https://leg.colorado.gov/bills/hb21-1162> or visit the City of Alamosa website at <https://cityofalamosa.org/departments/finance/> or call 719-589-2502 to speak to someone in the Finance Department.